

**THE VIRGINIA BOARD FOR
ASBESTOS, LEAD, MOLD, AND HOME INSPECTORS
MEETING MINUTES**

The Virginia Board for Asbestos, Lead, Mold, and Home Inspectors met on August 23, 2011, at the offices of the Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia.

The following members of the Board were present:

Bonnie Atwood
Colleen Becker
Suzanne Blevins
Christopher Chapman
Keith Cronan
Dolores Daniels
Phillip Fincher

Rick Holtz
Bowen Hyatt
Brian Koepf
Joel Loving
Kenneth Nash
Peter Palmer
Todd Vander Pol

Board Member Reginald Marston was not present at the meeting.

The following staff members were present for part or all of the meeting:

Mark N. Courtney, Deputy Director of Licensing and Regulation
David Dick, Executive Director
Eric Olson, Executive Director, Board for Contractors
Michele Atkinson, Board Administrator
Jill Hrynciw, Board Administrator
Cathy Clark, Administrative Assistant
Earlyne Perkins, Legal Analyst

Elizabeth Peay was present from the Office of the Attorney General.

Mr. Cronan, finding a quorum of the Board present, called the meeting to order at 9:02 a.m.

Call to Order

Ms. Hrynciw noted that the Agenda was amended to include Minutes of the June 14, 2011 IFF, that were omitted from the tentative Agenda. Mr. Vander Pol moved to approve the amended agenda. Ms. Daniels seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Approval of Agenda

Ms. Daniels moved to approve the following minutes:

Board Meeting Minutes – May 3, 2011;
IFF Meeting Minutes – June 14, 2011;
IFF Meeting Minutes – June 16, 2011; and
IFF Meeting Minutes – July 7, 2011.

**Approval of
Minutes**

Mr. Vander Pol seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Dr. Alan J. Neuman, of the Indoor Ecology Association, Newport News, VA, Shari Solomon, of Compliance Environmental, Glen Burnie, MD, Dale McGuire of ACM Services, Inc., Rockville, MD, and Glenn Fellman, of the Indoor Air Quality Association, Somerduck, VA, were present and addressed the Board.

**Public Comment
Period**

Regarding **File Number 2011-04582, Martrell D. Sanders**, the Board members reviewed the application file, which consisted of the exhibits, transcript and the summary of the Informal Fact-Finding Conference. Mr. Sanders was present and addressed the Board. Mr. Loving moved to accept the summary of the IFF and approve Mr. Sanders' asbestos supervisor application. Mr. Koepf seconded the motion, which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**File Number 2011-
04582 – Martrell D.
Sanders**

Ms. Blevins recused herself from the meeting.

Ms. Blevins Recused

Regarding **File Number 2011-02412, Frederick P. Reid**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference. Mr. Reid, respondent, and Mr. and Mrs. Law, complainants, were present and addressed the Board.

**File Number 2011-
02412 – Frederick P.
Reid**

Mr. Vander Pol moved to accept the Summary of the Informal Fact-Finding Conference as to the facts of Count 1, which cites a violation of 18 VAC 15-40-120.A of the Board's regulations. Mr. Koepf seconded the motion, which was approved by members: Atwood, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Vander Pol moved to accept the Summary of the Informal Fact-Finding Conference as to the facts of Count 2, which cites a violation of 18 VAC 15-40-190.6 of the Board's regulations. Mr. Koepf seconded the motion, which was approved by members: Atwood, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Vander Pol moved to accept the Summary of the Informal Fact-Finding Conference as to the facts of Count 3, which cites a violation of 18 VAC 15-40-190.2 of the Board's regulations. Mr. Koepf seconded the motion, which was approved by members: Atwood, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Vander Pol moved to accept the Summary of the Informal Fact-Finding Conference as to the sanction and impose a \$450 fine for the violation contained in Count 1. Mr. Koepf seconded the motion, which was approved by members: Atwood, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Vander Pol moved to accept the Summary of the Informal Fact-Finding Conference as to the sanction and impose a \$1,400 fine for the violation contained in Count 2. Mr. Koepf seconded the motion, which was approved by members: Atwood, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Plamer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Vander Pol moved to amend the Summary of the Informal Fact-Finding Conference as to the sanction and impose a \$500.00 fine for the violation contained in Count 3, and remove the additional sanction that Mr. Reid be placed on probation and be required to submit evidence acceptable to the Board that Reid has successfully completed twenty (20) contact hours of education pertaining to the content areas covered by the Board's Home Inspector examination within six (6) months of the effective date of the order. Mr. Hyatt seconded the motion which was approved by members: Vander Pol and Hyatt. The following members voted in opposition of the motion: Cronan, Chapman, Daniels, Koepf, Loving and Palmer. Atwood and Fincher abstained. The motion failed. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Koepf moved to amend the Summary of the Informal Fact-Finding Conference as to the sanctions and impose a \$500.00 fine and probation until Mr. Reid has successfully completed a minimum of eight (8) hours of education specifically pertaining to Exterior Insulation and Finish System (EIFS) within six months of the date of the Order or certification will be suspended. Mr. Palmer seconded the motion which was unanimously approved by members: Atwood, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Blevins was not present, did not participate in the discussion, and did not vote on this matter.

Ms. Blevins returned to meeting

**Ms. Blevins
returned to meeting**

Mr. Olson presented information to the Board on the new regulatory and licensing program for Residential Building Energy Analysts. Individuals and businesses making recommendations to improve energy consumption and efficiency will be required to obtain a license issued by the Virginia Board for Contractors. Emergency Regulations have been drafted and are currently under review by the Governor's office.

**New Regulatory
Program for
Residential Building
Energy Analysts –
Presentation by
Board for
Contractors Staff**

Ms. Hrynciw introduced a request from staff for the Board's interpretation of 18VAC15-60-40.B, related to the eligibility for licensure of mold inspector and remediator applicants who are certified by a national or state professional mold inspectors or mold remediators association approved by the Board.

**Requests for
Interpretation of
18VAC15-60-40.B**

Section 54.1-517.5.B. of the Code of Virginia and 18VAC15-60-40.B. of the Board's regulations establish three elements that are required to be present for applicants to be eligible for licensure:

1. Certification by the association
2. Membership in the association
3. Standards met for membership must have been substantially equivalent to the Board's requirements

After discussion with counsel, the Board decided by consensus that substantially equivalent membership / certification requirements of experience, education, training, and examination are required pursuant to 54.1-517.5.B in order for an applicant to qualify for a license under 18VAC15-60-40.B.

After discussion, Mr. Vander Pol moved that the Board agree that certifications awarded by a national or state professional mold inspectors or mold remediators association after meeting standards substantially equivalent to the Board's requirements for licensure are a class of membership as contemplated by Section 54.1-517.5.B of the Code of Virginia and 18VAC15-60-40.B. of the Board's regulations. Mr. Hyatt seconded the motion, which was approved by members: Atwood, Blevins, Daniels, Fincher, Hyatt, Koepf, Palmer and Vander Pol. The following members voted in opposition of the motion: Chapman, Cronan and Loving. The motion passed by majority. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

After discussion, Mr. Vander Pol moved that association members who meet membership requirements established after July 1, 2011 that are substantially equivalent to those established by the Board's regulations have met the regulation requirement of membership in and certification by the association and therefore may qualify for a license under 18VAC15-60-40.B.

Mr. Hyatt seconded the motion, which was approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Koepf, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

In response to training documents provided by Mr. McGuire, the Board discussed retroactively approving mold training courses that were Board approved on and after July 1, 2011. Mr. Cronan moved that the Board ask Board staff to research the feasibility of allowing a four hour Board-approved refresher training course completed after July 1, 2011, which includes the Virginia Mold Inspector and Remediator Regulations, in addition to completion of a now Board-approved initial training course prior to July 1, 2011, to satisfy the entry requirements found at 18VAC15-60-40.4.

Ms. Becker seconded the motion, which was approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Holtz, Hyatt, Loving, Palmer and Vander Pol. The motion passed unanimously. Mr. Koepf had left the meeting and did not participate in the discussion or vote. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

After discussion, Ms. Becker moved that the Board adopt a staff recommendation that the Board adopt a policy stating that an unlicensed individual may work under the direct supervision of a licensed mold inspector to obtain the experience required to apply for licensure as a mold inspector. The licensed mold inspector shall be present at all times while the unlicensed individual is performing mold inspections and shall approve by signature any mold inspection reports completed by the unlicensed individual. The licensed mold inspector assumes responsibility for all mold

**Discussion of
Allowing Training
Provided Prior to
July 1, 2011 by
Training Provider
That is Now
Approved**

**Adoption of Staff
Recommendation
Regarding Mold
Inspector
Experience
Requirement**

inspections completed by the unlicensed individual. Mr. Chapman seconded the motion, which was approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Loving, Palmer and Vader Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Koepf had left the meeting and did not participate in the discussion or vote.

Staff recommended, and the Board agreed, that individuals renewing their asbestos worker licenses continue to be required to complete the asbestos worker refresher training. The current practice of requiring refresher courses to be discipline-specific is consistent with the Asbestos MAP, current asbestos regulations, and the Board's 2009 interpretation of renewing lead licenses.

**Adoption of Staff
Recommendation
Regarding Asbestos
Refresher Courses
for Workers and
Supervisors**

After discussion, Mr. Hyatt moved that the staff's recommendation be adopted as presented. Ms. Becker seconded the motion, which was approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Loving, Palmer and Vader Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Hrynciw presented draft guidance documents that are a compilation of Board actions concerning qualifications for licensure and certification, renewal qualifications, renewal procedures and conflict of interest. Once adopted, the guidance documents will be posted on the Virginia Town Hall website in compliance with the Virginia Administrative Process Act.

**Adoption of
Asbestos, Lead and
Home Inspectors
Guidance
Documents**

Mr. Palmer moved that the guidance documents be adopted as presented by staff. Ms. Becker seconded the motion which was approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Loving, Palmer and Vader Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Vander Pol moved that the Board adopt the amended language of the Fast Track regulations for Home Inspectors in 18VAC15-40-30, striking the word “classroom” from the language. Ms. Becker seconded the motion, which was approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Hyatt, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**Adoption of Home
Inspector Fast
Track Language**

Mr. Koepf had left the meeting and did not vote on the motion.

Ms. Hrynciw presented an update on the implementation of Mold Inspector and Remediator Regulations.

**Update on
Implementation of
Mold Inspector and
Remediator
Regulations**

A Resolution for former Board member, Howard Varner, was read by Mr. Cronan. The text is as follows:

Resolutions

Commonwealth of Virginia
**BOARD FOR ABESTOS, LEAD, MOLD, AND HOME
INSPECTORS**

RESOLUTION TO

HOWARD D. VARNER

WHEREAS, **HOWARD D. VARNER** did faithfully and diligently serve as a member of the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors from 2007 to 2010;

WHEREAS, **HOWARD D. VARNER** did devote generously of his time, talent and leadership to the Board;

WHEREAS, **HOWARD D. VARNER** did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors this twenty-third day of August 2011, that **HOWARD D. VARNER** be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Mr. Loving moved to accept the Resolution. The motion was seconded by Ms. Daniels and approved by members: Blevins, Chapman, Cronan, Daniels, Hyatt, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

A Resolution for former Board member, Robert Kirby, was read by Mr. Cronan. The text is as follows:

Commonwealth of Virginia
BOARD FOR ABESTOS, LEAD, MOLD, AND HOME INSPECTORS

RESOLUTION TO

ROBERT M. KIRBY

WHEREAS, **ROBERT M. KIRBY** did faithfully and diligently serve as a member of the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors from 2009 to 2010;

WHEREAS, **ROBERT M. KIRBY** did devote generously of his time, talent and leadership to the Board;

WHEREAS, **ROBERT M. KIRBY** did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of

the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors this twenty-third day of August 2011, that **ROBERT M. KIRBY** be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Mr. Vander Pol moved to accept the Resolution. The motion was seconded by Ms. Becker and approved by members: Blevins, Chapman, Cronan, Daniels, Hyatt, Loving, Palmer and Vander Pol. The motion passed unanimously. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Atwood, Mr. Fincher and Mr. Koepf had left the meeting and did not vote on the motions.

Mr. Dick briefed the Board on the requirement under Executive Order 14 (2010) for a Periodic and Small Business Review of Regulations. No action is required by the Board. Staff will make the appropriate filings with the Virginia Town Hall and bring the resulting public comments to the Board for consideration at its November meeting. The Board will then vote to take no action or to publish a Notice of Intended Regulatory Action to begin the regulation amendment process. The Board took no action.

**Periodic and Small
Business Review of
Regulations**

Mr. Dick updated the Board on the progress of the proposed Renovation, Repair, and Painting (RRP) regulation and of the proposed amendment to the Lead-Based Paint Activities Regulation.

**Regulation Review
Update**

The following meeting dates have been scheduled:

**Future Meeting
Dates**

- November 15, 2011

- February 7, 2012
- May 10, 2012
- August 23, 2012
- November 8, 2012

Mr. Vander Pol moved to accept the future meeting dates. Ms. Becker seconded the motion, which was unanimously approved by members Blevins, Chapman, Cronan, Daniels, Hyatt, Loving, Palmer and Vander Pol. Board members Colleen Becker, Rick Holtz and Kenneth Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Atwood, Mr. Fincher and Mr. Koepf were not present and did not vote on the motion.

Ms. Clark provided the Board with training on the Conflict of Interests Act. Becker, Chapman, Cronan, Daniels, Hyatt, Loving, Nash, Palmer, Vander Pol, and Blevins completed training. The Board members completed their conflict of interest forms and travel vouchers.

The meeting adjourned at 3:31 p.m.

Conflict of Interests
Act Training
Presentation
Conflict of Interest
Forms

Adjournment

Keith F. Cronan, Chair

Gordon Dixon, Secretary